

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 12064 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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Whether Reporters of Local Papers
1 may be allowed to see the
judgment ?
2 To be referred to the Reporter or
not ?
3 Whether their Lordships wish to see
the fair copy of the judgment ?
Whether this case involves a
substantial question of law as to
4 the interpretation of the
constitution of India, 1950 or any
order made thereunder ?
5 Whether it is to be circulated to
the civil judge ?

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VITTHALBHAI ISHWARBHAI PATEL - Petitioner(s)

Versus

**DY.COLLECTOR STAMP DUTY VALUATION & 2 -
Respondent(s)**

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Appearance :

MR MP PRAJAPATI for Petitioner(s) : 1,
MR HM PRACHHAK for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 05/12/2005

ORAL JUDGMENT

1. Rule. Mr.H.M. Prachhak, learned AGP waives the service of rule on behalf of the respondents State.

2. In this petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the Appellate Authority i.e. the Chief Controlling Authority, State of Gujarat dtd.28/10/2004 in Appeal No.63 of 2002 in dismissing the same and confirming the order passed by the Deputy Collector, Stamp Duty Valuation, Anand/Nadiad dtd.4/9/2001 with respect to the document Nos.3673 and 7/9/1995, by which the petitioner was called upon to pay an amount of respondents.60,928=00 towards the deficit stamp duty and Rs.250 towards the penalty under

the provisions of Sec.32-A of the Bombay Stamp Act.

3. Mr.M.P. Prajapati, learned advocate appearing on behalf of the petitioner has vehemently submitted that the impugned order passed by the Appellate Authority is a non-speaking order and though number of submissions were made in the appeal memo and were argued, the same have not been dealt with by the Appellate Authority and without issuing any reason, the impugned order has been passed dismissing the appeal.

4.This Court has gone through the order passed by the Appellate Authority and it is found that the impugned order passed by the Appellate Authority is non-speaking order and/or that all the submissions which were submitted by the petitioner in the appeal memo has not been submitted and considered by the Appellate

Authority. In the order passed by the Appellate Authority, the Appellate Authority has recorded that as the order passed by the Deputy Collector is in accordance with law and the valuation is fixed by the Dy. Collector, there is no reason to interfere with the same.

5. In view of the fact that the impugned order passed by the Appellate Authority is a non-speaking order, the same is required to be quashed and set aside and the matter is required to be remanded to the appellate authority for deciding the same afresh on merits and after dealing with all the contentions raised by the petitioner and to pass a detailed speaking order.

6. For the reasons stated hereinabove, the petition succeeds in part. The impugned order passed by the Appellate Authority i.e. the Chief Controlling Authority dtd. 28/10/2004 in Appeal No. 32-B-63 of 2002 is hereby quashed and set

aside and the matter is remanded to the appellate authority for deciding the same afresh in accordance with law and on merits and after giving an opportunity to the petitioner and to pass detailed speaking order, as expeditiously as possible preferably within a period of THREE MONTHS from the date of receipt of writ of this order. Rule is made absolute to the aforesaid extent. However, there will be no order as to costs.

(M.R. SHAH, J.)

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